

December 9, 2005

VIA FACSIMILE
Robert Henderson, MD
Attention: Amanda S.

VIA FACSIMILE
Liberty Mutual
Attention: Virginia Cullipher

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M2-06-0294-01
DWC #:
Injured Employee:
Requestor: Robert Henderson, MD
Respondent: Liberty Mutual
MAXIMUS Case #: TW05-0237

MAXIMUS has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The MAXIMUS IRO Certificate Number is 5348. The TDI, Division of Workers Compensation (DWC) has assigned this case to MAXIMUS in accordance with Rule §133.308 which allows for a dispute resolution by an IRO.

MAXIMUS has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician who is board certified in orthopedic surgery on the MAXIMUS external review panel who is familiar with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the approved doctor list (ADL) of DWC or has been approved as an exception to the ADL requirement. A certification was signed that the reviewing provider has no known conflicts of interest between that provider and the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carrier health care providers who reviewed the case for decision before referral to the IRO, was signed. In addition, the MAXIMUS physician reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 44-year old male who sustained a work related injury on _____. The patient reported that he was struck in both knees with the head of a 10-pound sledge hammer. The patient noted that the hammer had been swung by a co-worker at a metallic structure which glanced off the structure and hit the patient. The patient also reported that he fell backwards onto a brace across his lower back and then dropped to his knees. The member has pain in both knees, the right knee greater than the left, and low back pain. Evaluation and treatment

have included physical therapy, and discography. Diagnoses have included disc disruption syndrome L5-S1, disc protrusion L5-S1 and multi-level spondylosis.

Requested Services

Preauth for anterior interbody fusion L5-S1, retroperitoneal exposure and discectomy L5-S1, anterior interbody fixation L5-S1, posterior decompression L5-S1, transverse process fusion L5-S1, posterior internal fixation, bone graft, allograft, bone graft autograft in situ, bone graft, autograft, iliac crest, bone marrow aspirate.

Documents and/or information used by the reviewer to reach a decision:

Documents Submitted by Requestor:

1. Request for Preauthorization for Surgery – 9/20/05
2. Chart Note – 3/16/05, 9/14/05
3. MRI – 7/6/04

Documents Submitted by Respondent:

4. Request for Preauthorization for Surgery – 9/20/05
5. Chart Note – 3/16/05, 9/14/05
6. MRI – 7/6/04

Decision

The Carrier's denial of authorization for the requested services is upheld.

Standard of Review

This MAXIMUS determination is based upon generally accepted standard and medical literature regarding the condition and services/supplies in the appeal.

Rationale/Basis for Decision

The MAXIMUS physician consultant indicated that this patient has MRI evidence of 3-level lumbar degenerative disc condition with chronic back pain. The MAXIMUS physician consultant noted the literature does not support fusion surgery in this patient's condition. The MAXIMUS physician consultant explained that the literature clearly reports that fusion surgery is not appropriate for multi-level degenerative disc disease. The MAXIMUS physician consultant also indicated that the chances of this patient's condition improving with spinal fusion surgery at L5-S1 are poor, especially when multiple other levels are degenerative. (Gibson JN, et al. Surgery for degenerative lumbar spondylosis: updated Cochrane Review. Spine 2005 Oct 15;30(20):2312-20)

Therefore, the MAXIMUS physician consultant concluded that the proposed preauthorization for anterior interbody fusion L5-S1, retroperitoneal exposure and discectomy L5-S1, anterior interbody fixation L5-S1, posterior decompression L5-S1, transverse process fusion L5-S1,

posterior internal fixation, bone graft, allograft, bone graft autograft in situ, bone graft, autograft, iliac crest, bone marrow aspirate is not medically necessary for treatment of the member's condition.

Your Right To Appeal

If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.

If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision.

Sincerely,
MAXIMUS

Lisa Gebbie, MS, RN
State Appeals Department

cc: Division of Workers Compensation

I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 9th day of December 2005.

Signature of IRO Employee: _____
External Appeals Department